

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

NIPPON SHINYAKU CO., LTD.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 21-1015 (LPS)
	)	
SAREPTA THERAPEUTICS, INC.,	)	
	)	
Defendant.	)	

**DEFENDANT SAREPTA THERAPEUTICS, INC.’S MOTION  
TO DISMISS CLAIMS II-X OF NIPPON SHINYAKU’S COMPLAINT  
AND TO STRIKE PARAGRAPHS 11, 66, AND 69 OF THE COMPLAINT**

Defendant Sarepta Therapeutics, Inc. (“Sarepta”) hereby moves pursuant to Fed. R. Civ. P. 12(f) to strike paragraphs 11, 66, and 69 of the Complaint (D.I. 2) and pursuant to Fed. R. Civ. P. 12(b)(1) to dismiss Claims II and III of the Complaint for lack of subject matter jurisdiction. Sarepta also moves pursuant to Fed. R. Civ. P. 12(b)(6) to dismiss Claim II of the Complaint for failure to state a claim on which relief can be granted. Finally, Sarepta moves pursuant to Fed. R. Civ. P. 12(b)(7) to dismiss Claims IV-X of the Complaint for failure to join an indispensable party under Fed. R. Civ. P. 19. The grounds for this motion are more fully set forth in Sarepta’s opening brief, filed herewith.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

*/s/ Jack B. Blumenfeld*

OF COUNSEL:

Charles E. Lipsey  
J. Derek McCorquindale  
FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, LLP  
1875 Explorer Street, Suite 800  
Reston, VA 20190-6023  
(571) 203-2700

Michael J. Flibbert  
Aaron Gleaton Clay  
FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, LLP  
901 New York Avenue, NW  
Washington, DC 20001-4413  
(202) 408-4000

Alissa K. Lipton  
FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, LLP  
Two Seaport Lane  
Boston, MA 02210-2001  
(617) 646-1600

---

Jack B. Blumenfeld (#1014)  
Megan E. Dellinger (#5739)  
1201 North Market Street  
P.O. Box 1347  
Wilmington, DE 19899  
(302) 658-9200  
jblumenfeld@morrisnichols.com  
mdellinger@morrisnichols.com

*Attorneys for Defendant*

September 3, 2021

**RULE 7.1.1 STATEMENT**

Pursuant to D. Del. LR 7.1.1, counsel for Defendant Sarepta Therapeutics, Inc. states that reasonable efforts, including verbal communication between Delaware counsel, were made to reach agreement with Plaintiff Nippon Shinyaku Co., Ltd. on the portion of this motion seeking to strike portions of the Complaint (D.I. 2) under Fed. R. Civ. P. 12(f), but the parties were unable to reach agreement.

*/s/ Jack B. Blumenfeld*

---

Jack B. Blumenfeld (#1014)

**CERTIFICATE OF SERVICE**

I hereby certify that on September 3, 2021, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

I further certify that I caused copies of the foregoing document to be served on September 3, 2021, 2021, upon the following in the manner indicated:

Amy M. Dudash, Esquire  
MORGAN, LEWIS & BOCKIUS LLP  
1201 North Market Street, Suite 2201  
Wilmington, DE 19801  
*Attorneys for Plaintiff*

*VIA ELECTRONIC MAIL*

Amanda S. Williamson, Esquire  
Christopher J. Betti, Esquire  
Krista Vink Venegas, Esquire  
Maria E. Doukas, Esquire  
Michael T. Sikora, Esquire  
MORGAN, LEWIS & BOCKIUS LLP  
110 North Wacker Drive, Suite 2800  
Chicago, IL 60606  
*Attorneys for Plaintiff*

*VIA ELECTRONIC MAIL*

*/s/ Jack B. Blumenfeld*

---

Jack B. Blumenfeld (#1014)